



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 20, 1995

Mr. Ray Rike  
Assistant District Attorney  
Tarrant County  
Office of the Criminal District Attorney  
Justice Center  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR95-131

Dear Mr. Rike:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 27282.

Tarrant County (the "county") has received a request from the Texas Army National Guard for access to the military discharge records ("DD 214s") in the county's possession. You have submitted a representative sample of the requested records to us for review and claim that section 552.101 of the Government Code excepts them from required public disclosure.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You assert section 552.101 in conjunction with federal regulations. Section 1.500, part 38 of the Code of Federal Regulations provides in pertinent part:

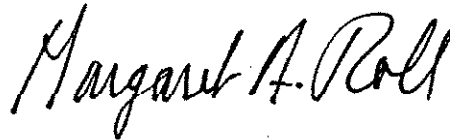
(a) Files, records, reports, and other papers and documents pertaining to any claim filed with the Department of Veterans Affairs, whether pending or adjudicated, and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Department of Veterans Affairs, will be deemed confidential and privileged, and no disclosure therefrom will be made except in the circumstances and under the conditions set forth in sections 1.501 through 1.526.

See also 38 C.F.R. §§ 1.575-84 (restricting release of certain materials by Department of Veterans Affairs). No federal statute that you cited, nor any of which we are aware, restricts *the county* from releasing the requested information.

You also assert section 552.101 in conjunction with common-law privacy. Under *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977), information must be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. We have examined the documents submitted to us for review. It does not contain any information that is intimate or embarrassing. Moreover, we cannot conceive of the type of information ordinarily found on a DD 214, for example, name, address, dates of service, decorations awarded, military education, and character of service, that would be intimate or embarrassing. We conclude, therefore, that the county may not withhold the requested information under section 552.101 of the Government Code.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Government Section

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<sup>1</sup>We note as well that even if information on the requested DD 214s were intimate or embarrassing and of no legitimate public concern, the Open Records Act would not prohibit its release in this instance. Generally, a state agency may transfer information to another state agency or any other governmental body subject to the Open Records Act without violating the confidentiality of the information if the agency to which the information is transferred has the authority to receive it, Open Records Decision No. 516 (1989), unless a statute or regulation prohibits such a transfer, Attorney General Opinion JM-590 (1986). As noted above, we are not aware of any statute or regulation that prohibits transfer of the requested information to the Texas National Guard. Assuming that the Texas National Guard has authority to receive such information, the county could transfer the information to the Texas National Guard without destroying the confidentiality of any of the information that might be protected by common-law privacy.

Enclosures: Submitted documents

Ref.: ID# 27282

cc: Sergeant First Class Roy E. Bailey  
Texas Army National Guard  
5104 Sandage Avenue  
Fort Worth, Texas 76115-3799  
(w/o enclosures)